

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KIRK CURLS,

Plaintiff,

v.

UNION PACIFIC RAILROAD COMPANY,

Defendant.

NO. CIV. S-02-703 LKK/JFM

O R D E R

A Pretrial Conference is now set in the above-captioned case for May 2, 2005 at 3:00 p.m. On April 28, 2005, counsel for plaintiff notified the court that he is unable to appear for the Pretrial Conference and requested that it be rescheduled. In his statement, counsel explains that he is currently expected to be in trial on May 2 in an unrelated case, and that any interruption of the trial will interfere with the rights of his client in that case. He also states that he has "numerous other scheduling problems."

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1 Counsel's requests for continuances and other procedural
2 defaults are not new to this court. On April 18, 2005, counsel
3 filed a declaration explaining why he failed to file a joint
4 pretrial statement as required by Local Rule 16-281 in the
5 instant case. In that declaration, counsel explained that
6 another "trial ha[d] made it very difficult to keep up with
7 [his] other litigation work." In response, the court ordered
8 the parties to appear in chambers on May 2, 2005 to draft a
9 joint pretrial statement, after which the court would hold a
10 Pretrial Conference. Again, however, counsel cannot comply with
11 the court's order.

12 Because it appears that counsel is unable to represent the
13 interests of his client in this case, and in order to prevent
14 further waste of judicial resources, the court will take no
15 further action in this case until plaintiff obtains additional
16 counsel or can in some manner demonstrate that he has counsel
17 able to represent him.

18 Accordingly, the Pretrial Conference and trial date are
19 hereby VACATED. The court intends to take no further action in
20 this case pending a motion to set for pretrial, making the
21 requisite showing. Should the case languish for an additional
22 three months, it will be dismissed for lack of prosecution.

23 IT IS SO ORDERED.

24 DATED: April 29, 2005.

25 /s/Lawrence K. Karlton
26 LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT